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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,091

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Seiichi Moriyama

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EXAMINER

BINDA, GREGORY JOHN

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/586,091	<b>Applicant(s)</b> MORIYAMA ET AL.	
	<b>Examiner</b> Greg Binda	<b>Art Unit</b> 3679	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 3,5 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 8-17 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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*Election/Restrictions*

1. Applicant's election without traverse of the dust cover shown in Figs. 9+ (Species III) in the reply filed on November 6, 2008 is acknowledged.

2. Claims 3, 5 & 7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 6, 2008.

*Information Disclosure Statement*

3. The information disclosure statement filed June 11, 2007 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because seventeen different non patent literature references are listed therein, but no copies of non patent literature references were provided with the statement. Furthermore, the six foreign patent literature documents that were received which presumably equate to these seventeen references were not properly identified (i.e. one line item per reference) on the form PTO/SB/08B.

Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

*Drawings*

4. The drawings are objected to because:
  - a. The reference numerals appearing in paragraphs 0003 and 0005 do not appear in the drawings.
  - a. The drawings fail to include the appropriate cross hatch pattern for the rubber elements 3, 4 & 25. See MPEP § 608.02 for the appropriate pattern.
  - b. Reference numerals 1+ are used to identify features in Figs. 1-5 and then reused to identify modifications of those features in Figs. 6+. Such usage is proscribed. See MPEP § 608.02(e).
  - c. The drawings fail to include the appropriate cross hatch pattern for the synthetic resin element 5. See MPEP § 608.02 for the appropriate pattern.
  - d. The drawings fail to show the limitations of claim 17.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

6. The disclosure is objected to because:
  - a. The description at paragraphs 0003 & 0005 fails to refer to a drawing by figure number.
  - b. Page 29, line 2, the phrase "See Figure 3" should be changed to "see Figures 3 & 11".
7. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### *Claim Objections*

8. The claims are objected to as failing to comply with 37 CFR 1.75(i) because elements of the claims are not separated by line indentation.
9. Claim 12 is objected to because in line 2 the phrase "having is formed" should be changed to "is formed".

*Claim Rejections - 35 USC § 112*

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. Claim 12 recites the limitation, “a groove . . . is formed on the end portion on the outer periphery side of the bellows which is close to the engine room side”. However, the specification teaches that a convex portion 16, not a groove, is formed on the end portion 31b of the bellows 3b.

b. Claim 12 recites the limitation, “a groove . . . is formed on the end portion on the outer periphery side of the bellows which is close to . . . the vehicle compartment side.”

No such formation is suggested in the specification.

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 16 & 17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as

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the invention. The term "rough" in claims 16 & 17 is a relative term which renders the claim indefinite. The term "rough" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For the remainder of this action, it is assumed that any surface, unless it is expressly disclosed as non-rough, is a rough surface.

*Claim Rejections - 35 USC § 102*

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1 & 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Beutel, US 4,616,837. Beutel shows a dust cover that could be used for a steering shaft for closing a column hole between a steering shaft penetrating the column hole provided on a panel which separates an engine room and a vehicle compartment, and the panel, the dust cover comprising:

a bush 2 made of low frictional material (col. 3, lines 29 & 30), through which the steering shaft penetrates;

a main body 2, 3 of dust seal made of rubber, provided with a plurality of bellows 2 & 3 in an axial direction of the steering shaft and arranged between the bush and the panel, for sealing a clearance thereof, and

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an annular seal lip 3a, 4a arranged on each side of the bush, in contact with an outer peripheral surface of the steering shaft.

16. Claims 1, 4, 8-11 & 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaza, SU 4832197. Kaza shows a dust cover that could be used for a steering shaft for closing a column hole between a steering shaft penetrating the column hole provided on a panel which separates an engine room and a vehicle compartment, and the panel, the dust cover comprising:

a bush 11 made of low frictional material 12, through which a shaft 5 penetrates;

a main body 13 of dust seal made of rubber, provided with a plurality of bellows in an axial direction of the steering shaft and arranged between the bush and the panel, for sealing a clearance thereof, and

two annular seal lips arranged on the bush, in contact with an outer peripheral surface of the shaft.

*Claim Rejections - 35 USC § 103*

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1, 2, 8-11 & 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osamu et al, JP 2001-324018 (Osamu) in view of Abels, US 6,350,075. In Fig. 1, Osamu shows



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a dust cover comprising every limitation of the claims except a bush made of low frictional material. Abels shows a dust cover comprising a bush 8 made of low frictional material (see also "PTFE" at col. 2, line 66). In col. 3, lines 1-11 and col. 4, lines 33-38, Abels teaches making a dust cover with a bush made of a low friction material in order to provide improved sealing performance and wear resistance. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the dust cover of Osamu by making it with a bush made from low friction material in order to provide improved sealing performance and wear resistance as taught by Abels.

19. Claims 1 & 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harkrader et al, US 6,056,297 (Harkrader) in view of Osamu. In Fig. 2, Harkrader shows a dust cover 8 for a steering shaft 6 for closing a column hole between a steering shaft penetrating the column hole provided on a panel 9 which separates an engine room and a vehicle compartment, and the panel, the dust cover comprising: a bush 51-53 made of low frictional material (see also col. 2, line 62), through which the steering shaft penetrates; and a main body of dust seal made of rubber (see also col. 2, line 42), provided with a plurality of bellows 29, 30 in an axial direction of the steering shaft and arranged between the bush and the panel, for sealing a clearance thereof. Harkrader does not expressly disclose the dust cover with lip seals. Osamu discloses making a dust cover with lip seals 13 & 14 in order to improve sealing performance and sound insulation, and for reducing cost. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the dust cover of Harkrader by including lip seals like that of Osamu

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in order to improve sealing performance and sound insulation, and to reduce cost as taught by Osamu.

20. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osamu in view of Abels as applied to claim 8 above, and further in view of Harkrader. The combination of Osamu and Abels includes all the limitations of the claims except an annular convex portion formed on the outer end portion of the bellows. In Fig. 2, Harkrader shows annular convex portions 39 & 40 formed on the outer end portion 13 of the bellows 8 and teaches at col. 2, line 50 through col. 3, line 17 providing these convex portions in order to attenuate noise transmission. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Osamu and Abels by including annular convex portions like that of Harkrader in order to attenuate noise transmission as taught by Harkrader.

#### *Allowable Subject Matter*

21. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanazawa, Gehrke, Husen and Hubbard each show a dust cover.

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23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg Binda/  
Primary Examiner  
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